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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,791	02/12/2001	Kemal Onder	(200ES170) BFG-RY	6965
7590	02/26/2003			
Joe A. Powell Noveon, Inc. 9911 Brecksville Road Cleveland, OH 44141			EXAMINER GORR, RACHEL F	
		ART UNIT 1711	PAPER NUMBER	

DATE MAILED: 02/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/781,791

Applicant(s)

ONDER, KEMAL

Examiner

Rachel Gorr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on ____.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3-6,8-13,16,18-21,23-28,31,33-36 and 38-43 is/are pending in the application.

4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) Claim(s) ____ is/are allowed.

6) Claim(s) 1,9-13,16,24-28,31 and 39-43 is/are rejected.

7) Claim(s) 3-6,8,18-21,23,33-36 and 38 is/are objected to.

8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). ____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 6) Other: ____

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 9-13, 16, 24-28, 31, 39-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Barksby.

Barksby discloses thermoplastic polyurethanes comprising diisocyanate, polyoxypropylene diol having 1 to 20 wt. % random ethylene oxide content and a molecular weight of 2000, and a glycol chain extender (see claim 1). He prefers NCO/OH ratios of 100-105 (col. 12, line 13). The polyether diol would have a high secondary OH content because the diol comprises mainly propylene oxide. In col. 10, lines 14-18, Barksby states that the polyol would have to be capped with ethylene oxide in order to have a significant amount of primary OH. The molecular weight and vapor transmission rate would be inherent because the polymers of Barksby are the same as those of the claims.

3. Applicant's arguments filed 01-16-03 have been fully considered but they are not persuasive. The applicant argues that Barksby's polyurethanes are thermoset. Barksby shows both thermoset and thermoplastic. Those polyurethanes made with all difunctional components are thermoplastic, and those made from triols or triisocyanates would be thermoset. His examples show both thermoset and thermoplastic polyurethane. The applicant argues that those polyurethanes made with only difunctional components would be thermoset because Barksby over indexes them. This isn't the case. Barksby

prefers NCO/OH ratios that overlap with the claims (see above rejection). The applicant argues that Barksby uses polyols of higher molecular weight. The molecular weights specified in claim 1 of Barksby overlap those of the applicant's claims.

4. Claims 3-6, 8, 18-21, 23, 33-36 and 38 are objected to for depending on rejected claims.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel Gorr whose telephone number is (703) 308-3608. The examiner can normally be reached on Mon., Tues., Thurs., Fri., from 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck can be reached on (703) 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned

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are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

R.G.

February 21, 2003



RACHEL GORR
PRIMARY EXAMINER